

Calendar No. 443

107TH CONGRESS
2^D SESSION

S. 2530

[Report No. 107-176]

To amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.

IN THE SENATE OF THE UNITED STATES

MAY 16 (legislative day, MAY 9), 2002

Mr. THOMPSON (for himself and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

JUNE 25, 2002

Reported by Mr. LIEBERMAN, without amendment

A BILL

To amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. LAW ENFORCEMENT POWERS OF INSPECTOR**
2 **GENERAL AGENTS.**

3 (a) IN GENERAL.—Section 6 of the Inspector General
4 Act of 1978 (5 U.S.C. App.) is amended by adding at the
5 end the following:

6 “(e)(1) In addition to the authority otherwise pro-
7 vided by this Act, each Inspector General appointed under
8 section 3, any Assistant Inspector General for Investiga-
9 tions under such an Inspector General, and any special
10 agent supervised by such an Assistant Inspector General
11 may be authorized by the Attorney General to—

12 “(A) carry a firearm while engaged in official
13 duties as authorized under this Act or other statute,
14 or as expressly authorized by the Attorney General;

15 “(B) make an arrest without a warrant while
16 engaged in official duties as authorized under this
17 Act or other statute, or as expressly authorized by
18 the Attorney General, for any offense against the
19 United States committed in the presence of such In-
20 spector General, Assistant Inspector General, or
21 agent, or for any felony cognizable under the laws
22 of the United States if such Inspector General, As-
23 sistant Inspector General, or agent has reasonable
24 grounds to believe that the person to be arrested has
25 committed or is committing such felony; and

1 “(C) seek and execute warrants for arrest,
2 search of a premises, or seizure of evidence issued
3 under the authority of the United States upon prob-
4 able cause to believe that a violation has been com-
5 mitted.

6 “(2) The Attorney General may authorize exercise of
7 the powers under this subsection only upon an initial de-
8 termination that—

9 “(A) the affected Office of Inspector General is
10 significantly hampered in the performance of respon-
11 sibilities established by this Act as a result of the
12 lack of such powers;

13 “(B) available assistance from other law en-
14 forcement agencies is insufficient to meet the need
15 for such powers; and

16 “(C) adequate internal safeguards and manage-
17 ment procedures exist to ensure proper exercise of
18 such powers.

19 “(3) The Inspector General offices of the Department
20 of Commerce, Department of Education, Department of
21 Energy, Department of Health and Human Services, De-
22 partment of Housing and Urban Development, Depart-
23 ment of the Interior, Department of Justice, Department
24 of Labor, Department of State, Department of Transpor-
25 tation, Department of the Treasury, Department of Vet-

1 erans Affairs, Agency for International Development, En-
 2 vironmental Protection Agency, Federal Deposit Insur-
 3 ance Corporation, Federal Emergency Management Agen-
 4 cy, General Services Administration, National Aeronautics
 5 and Space Administration, Nuclear Regulatory Commis-
 6 sion, Office of Personnel Management, Railroad Retire-
 7 ment Board, Small Business Administration, Social Secu-
 8 rity Administration, and the Tennessee Valley Authority
 9 are exempt from the requirement of paragraph (2) of an
 10 initial determination of eligibility by the Attorney General.

11 “(4) The Attorney General shall promulgate, and re-
 12 vise as appropriate, guidelines which shall govern the exer-
 13 cise of the law enforcement powers established under para-
 14 graph (1).

15 “(5) Powers authorized for an Office of Inspector
 16 General under paragraph (1) shall be rescinded or sus-
 17 pended upon a determination by the Attorney General that
 18 any of the requirements under paragraph (2) is no longer
 19 satisfied or that the exercise of authorized powers by that
 20 Office of Inspector General has not complied with the
 21 guidelines promulgated by the Attorney General under
 22 paragraph (4).

23 “(6) A determination by the Attorney General under
 24 paragraph (2) or (5) shall not be reviewable in or by any
 25 court.

1 “(7) To ensure the proper exercise of the law enforce-
2 ment powers authorized by this subsection, the Offices of
3 Inspector General described under paragraph (3) shall,
4 not later than 180 days after the date of enactment of
5 this subsection, collectively enter into a memorandum of
6 understanding to establish an external review process for
7 ensuring that adequate internal safeguards and manage-
8 ment procedures continue to exist within each Office and
9 within any Office that later receives an authorization
10 under paragraph (2). The review process shall be estab-
11 lished in consultation with the Attorney General, who shall
12 be provided with a copy of the memorandum of under-
13 standing that establishes the review process. Under the
14 review process, the exercise of the law enforcement powers
15 by each Office of Inspector General shall be reviewed peri-
16 odically by another Office of Inspector General or by a
17 committee of Inspectors General. The results of each re-
18 view shall be communicated in writing to the applicable
19 Inspector General and to the Attorney General.

20 “(8) No provision of this subsection shall limit the
21 exercise of law enforcement powers established under any
22 other statutory authority, including United States Mar-
23 shals Service special deputation.”.

24 (b) PROMULGATION OF INITIAL GUIDELINES.—

1 (1) DEFINITION.—In this subsection, the term
2 “memoranda of understanding” means the agree-
3 ments between the Department of Justice and the
4 Inspector General offices described under section
5 6(e)(3) of the Inspector General Act of 1978 (5
6 U.S.C. App) (as added by subsection (a) of this sec-
7 tion) that—

8 (A) are in effect on the date of enactment
9 of this Act; and

10 (B) authorize such offices to exercise au-
11 thority that is the same or similar to the au-
12 thority under section 6(e)(1) of such Act.

13 (2) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this Act, the Attorney
15 General shall promulgate guidelines under section
16 6(e)(4) of the Inspector General Act of 1978 (5
17 U.S.C. App) (as added by subsection (a) of this sec-
18 tion) applicable to the Inspector General offices de-
19 scribed under section 6(e)(3) of that Act.

20 (3) MINIMUM REQUIREMENTS.—The guidelines
21 promulgated under this subsection shall include, at
22 a minimum, the operational and training require-
23 ments in the memoranda of understanding.

24 (4) NO LAPSE OF AUTHORITY.—The memo-
25 randa of understanding in effect on the date of en-

1 actment of this Act shall remain in effect until the
2 guidelines promulgated under this subsection take
3 effect.

4 (c) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Subsection (a) shall take ef-
6 fect 180 days after the date of enactment of this
7 Act.

8 (2) INITIAL GUIDELINES.—Subsection (b) shall
9 take effect on the date of enactment of this Act.

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